IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

JOHN H. HAMILTON,)
Plaintiff,)
v.) C.A. No. 04-264-GMS
STATE OF DELAWARE,))
Defendant.)

ORDER

WHEREAS, on April 23, 2004, John H. Hamilton ("Hamilton") filed a Motion for Writ of Mandamus with the court:

WHEREAS, the motion requests the court to compel the Delaware Supreme Court to take action regarding Hamilton's appeal;

WHEREAS, 28 U.S.C. § 1361 provides that "[t]he district court shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or agency thereof to perform a duty owed to the plaintiff;"

WHEREAS, "a federal court may issue a writ of mandamus only in aid of its jurisdiction and has no general power to issue a writ of mandamus to compel a state court to exercise its jurisdiction;" and

¹ Bronson v. Supreme Court of Pennsylvania, Civil Action No. 89-5552, 1989 U.S. Dist. LEXIS 10083, at * 1 (E.D. Pa. Aug. 28, 1989); see 28 U.S.C. § 1651 (federal courts may issue "all writs necessary or appropriate in aid of their jurisdiction"); In re Grand Jury Proceedings, 654 F.2d 268, 278 (3d Cir. 1981) ("A federal court, for example, ordinarily may not issue a writ of mandamus to compel a state court to exercise a jurisdiction entrusted to it).

WHEREAS, after having considered the applicable legal principles, the court concludes that

it lacks subject matter jurisdiction to compel the Delaware Supreme Court to exercise its appellate

jurisdiction;

IT IS HEREBY ORDERED that:

1. The plaintiff's Motion for Writ of Mandamus (D.I. 1) is DENIED.

2. The plaintiff's case is DISMISSED.

3. The Clerk of the Court is directed to close this case.

Dated: March 28, 2005 /s/ Gregory M. Sleet

UNITED STATES DISTRICT JUDGE